



Senate

General Assembly

File No. 606

January Session, 2005

Substitute Senate Bill No. 1033

Senate, May 2, 2005

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING SPECIAL POLICEMEN IN THE SPECIAL INVESTIGATION SECTION OF THE DEPARTMENT OF REVENUE SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 53a-19 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (b) Notwithstanding the provisions of subsection (a) of this section,
5 a person is not justified in using deadly physical force upon another
6 person if he or she knows that he or she can avoid the necessity of
7 using such force with complete safety (1) by retreating, except that the
8 actor shall not be required to retreat if he or she is in his dwelling, as
9 defined in section 53a-100, or place of work and was not the initial
10 aggressor, or if he or she is a peace officer or a special policeman
11 appointed under section 29-18b or a private person assisting such
12 peace officer or special policeman at his or her direction, and acting

13 pursuant to section 53a-22, as amended by this act, or (2) by
14 surrendering possession of property to a person asserting a claim of
15 right thereto, or (3) by complying with a demand that he or she abstain
16 from performing an act which he or she is not obliged to perform.

17 Sec. 2. Section 53a-22 of the general statutes is repealed and the
18 following is substituted in lieu thereof (*Effective October 1, 2005*):

19 (a) For purposes of this section, a reasonable belief that a person has
20 committed an offense means a reasonable belief in facts or
21 circumstances which if true would in law constitute an offense. If the
22 believed facts or circumstances would not in law constitute an offense,
23 an erroneous though not unreasonable belief that the law is otherwise
24 does not render justifiable the use of physical force to make an arrest
25 or to prevent an escape from custody. A peace officer, special
26 policeman appointed under section 29-18b or an authorized official of
27 the Department of Correction who is effecting an arrest pursuant to a
28 warrant or preventing an escape from custody is justified in using the
29 physical force prescribed in subsections (b) and (c) of this section
30 unless such warrant is invalid and is known by such officer to be
31 invalid.

32 (b) Except as provided in subsection (a) of this section, a peace
33 officer, special policeman appointed under section 29-18b or
34 authorized official of the Department of Correction is justified in using
35 physical force upon another person when and to the extent that he or
36 she reasonably believes such to be necessary to: (1) Effect an arrest or
37 prevent the escape from custody of a person whom he or she
38 reasonably believes to have committed an offense, unless he or she
39 knows that the arrest or custody is unauthorized; or (2) defend himself
40 or herself or a third person from the use or imminent use of physical
41 force while effecting or attempting to effect an arrest or while
42 preventing or attempting to prevent an escape.

43 (c) A peace officer, special policeman appointed under section 29-
44 18b or authorized official of the Department of Correction is justified in
45 using deadly physical force upon another person for the purposes

46 specified in subsection (b) of this section only when he or she
47 reasonably believes such to be necessary to: (1) Defend himself or
48 herself or a third person from the use or imminent use of deadly
49 physical force; or (2) effect an arrest or prevent the escape from
50 custody of a person whom he or she reasonably believes has
51 committed or attempted to commit a felony which involved the
52 infliction or threatened infliction of serious physical injury and if,
53 where feasible, he or she has given warning of his or her intent to use
54 deadly physical force.

55 (d) Except as provided in subsection (e) of this section, a person who
56 has been directed by a peace officer, special policeman appointed
57 under section 29-18b or authorized official of the Department of
58 Correction to assist such peace officer, special policeman or official to
59 effect an arrest or to prevent an escape from custody is justified in
60 using reasonable physical force when and to the extent that he or she
61 reasonably believes such to be necessary to carry out such peace
62 officer's, special policeman's or official's direction.

63 (e) A person who has been directed to assist a peace officer, special
64 policeman appointed under section 29-18b or authorized official of the
65 Department of Correction under circumstances specified in subsection
66 (d) of this section may use deadly physical force to effect an arrest or to
67 prevent an escape from custody only when: (1) He or she reasonably
68 believes such to be necessary to defend himself or herself or a third
69 person from what he or she reasonably believes to be the use or
70 imminent use of deadly physical force; or (2) he or she is directed or
71 authorized by such peace officer, special policeman or official to use
72 deadly physical force, unless he or she knows that the peace officer,
73 special policeman or official himself or herself is not authorized to use
74 deadly physical force under the circumstances.

75 (f) A private person acting on his or her own account is justified in
76 using reasonable physical force upon another person when and to the
77 extent that he or she reasonably believes such to be necessary to effect
78 an arrest or to prevent the escape from custody of an arrested person

79 whom he or she reasonably believes to have committed an offense and
80 who in fact has committed such offense; but he or she is not justified in
81 using deadly physical force in such circumstances, except in defense of
82 person as prescribed in section 53a-19.

83 Sec. 3. Section 53a-23 of the general statutes is repealed and the
84 following is substituted in lieu thereof (*Effective October 1, 2005*):

85 A person is not justified in using physical force to resist an arrest by
86 a reasonably identifiable peace officer or special policeman appointed
87 under section 29-18b, whether such arrest is legal or illegal.

88 Sec. 4. Subsection (a) of section 53a-167a of the general statutes is
89 repealed and the following is substituted in lieu thereof (*Effective*
90 *October 1, 2005*):

91 (a) A person is guilty of interfering with an officer when such
92 person obstructs, resists, hinders or endangers any peace officer,
93 special policeman appointed under section 29-18b or firefighter in the
94 performance of such peace officer's, special policeman's or firefighter's
95 duties.

96 Sec. 5. Section 53a-167b of the general statutes is repealed and the
97 following is substituted in lieu thereof (*Effective October 1, 2005*):

98 (a) A person is guilty of failure to assist a peace officer, special
99 policeman or firefighter when, commanded by a peace officer, special
100 policeman appointed under section 29-18b or firefighter authorized to
101 command assistance, such person refuses to assist such peace officer,
102 special policeman or firefighter in the execution of such peace officer's,
103 special policeman's or firefighter's duties.

104 (b) Failure to assist a peace officer, special policeman or firefighter is
105 a class A misdemeanor.

106 Sec. 6. Section 53a-167c of the general statutes is repealed and the
107 following is substituted in lieu thereof (*Effective October 1, 2005*):

108 (a) A person is guilty of assault of public safety or emergency
109 medical personnel when, with intent to prevent a reasonably
110 identifiable peace officer, special policeman appointed under section
111 29-18b, firefighter or employee of an emergency medical service
112 organization, as defined in section 53a-3, emergency room physician or
113 nurse, employee of the Department of Correction, member of the
114 Board of Pardons and Paroles, probation officer, employee of the
115 judicial branch assigned to provide pretrial secure detention and
116 programming services to juveniles accused of the commission of a
117 delinquent act, employee of the Department of Children and Families
118 assigned to provide direct services to children and youth in the care or
119 custody of the department, employee of a municipal police department
120 assigned to provide security at the police department's lockup and
121 holding facility or active individual member of a volunteer canine
122 search and rescue team, as defined in section 5-249, from performing
123 his or her duties, and while such peace officer, special policeman,
124 firefighter, employee, physician, nurse, member, probation officer or
125 active individual member is acting in the performance of his or her
126 duties, (1) such person causes physical injury to such peace officer,
127 special policeman, firefighter, employee, physician, nurse, member,
128 probation officer or active individual member, or (2) such person
129 throws or hurls, or causes to be thrown or hurled, any rock, bottle, can
130 or other article, object or missile of any kind capable of causing
131 physical harm, damage or injury, at such peace officer, special
132 policeman, firefighter, employee, physician, nurse, member, probation
133 officer or active individual member, or (3) such person uses or causes
134 to be used any mace, tear gas or any like or similar deleterious agent
135 against such peace officer, special policeman, firefighter, employee,
136 physician, nurse, member, probation officer or active individual
137 member, or (4) such person throws or hurls, or causes to be thrown or
138 hurled, any paint, dye or other like or similar staining, discoloring or
139 coloring agent or any type of offensive or noxious liquid, agent or
140 substance at such peace officer, special policeman, firefighter,
141 employee, physician, nurse, member, probation officer or active
142 individual member, or (5) such person throws or hurls, or causes to be

143 thrown or hurled, any bodily fluid including, but not limited to, urine,
 144 feces, blood or saliva at such peace officer, special policeman,
 145 firefighter, employee, physician, nurse, member, probation officer or
 146 active individual member.

147 (b) Assault of public safety or emergency medical personnel is a
 148 class C felony. If any person who is confined in an institution or facility
 149 of the Department of Correction is sentenced to a term of
 150 imprisonment for assault of an employee of the Department of
 151 Correction under this section, such term shall run consecutively to the
 152 term for which the person was serving at the time of the assault.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	53a-19(b)
Sec. 2	October 1, 2005	53a-22
Sec. 3	October 1, 2005	53a-23
Sec. 4	October 1, 2005	53a-167a(a)
Sec. 5	October 1, 2005	53a-167b
Sec. 6	October 1, 2005	53a-167c

Statement of Legislative Commissioners:

The language in sections 1 and 2 was made gender neutral.

PS *Joint Favorable Subst. C/R*

JUD

JUD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 06 \$	FY 07 \$
Correction, Dept.; Judicial Dept.	GF - Cost and Revenue Gain	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill extends the Division of Revenue Services (DRS) special policemen the same justification for using deadly force, and the same protections as peace officers.

A crime against a peace officer is a class C felony, and could result in a fine of up to \$10,000, ten years imprisonment, or both. It is anticipated that few offenses would be prosecuted each year and, consequently, any revenue gain from criminal fines under the bill would be minimal. To the extent that offenders are prosecuted criminally and subsequently convicted or plead guilty, the state could incur a cost associated with incarceration and/or probation supervision in the community.

On average, it costs the state \$2,150 to supervise an offender on probation in the community as compared to \$35,040 to incarcerate the offender (note that both figures include fringe benefits).

OLR Bill Analysis

sSB 1033

AN ACT CONCERNING SPECIAL POLICEMEN IN THE SPECIAL INVESTIGATION SECTION OF THE DEPARTMENT OF REVENUE SERVICES**SUMMARY:**

This bill allows Division of Revenue Services (DRS) special policemen to use deadly physical force to the same extent and under the same circumstances as peace officers. It provides them with the same protections as peace officers with respect to those who assault or use physical force against them, resist arrest, interfere with performance of their duties, or fail to render assistance when requested.

EFFECTIVE DATE: October 1, 2005

BACKGROUND***Division of Special Revenue Special Policemen***

By law, the public safety commissioner may appoint special policemen in the DRS special investigation section. DRS special policemen (tax enforcement agents) are trained and certified by the Police Officer Standards and Training Council as police officers. By law, they have all the powers of state policemen. But they are not among the special policemen included in the definition of peace officers in CGS § 53a-3(9). The special policemen included in the definition are those appointed (1) to act on state property, (2) in the public safety department to investigate public assistance fraud, and (3) to protect property of utility and transportation companies (CGS §§ 29-18, 29-18a, & 29-19).

Peace Officers and Use of Deadly Force

A peace officer is justified in using deadly physical force when he reasonably believes it is necessary to (1) defend himself or a third person from the use or imminent use of deadly physical force and (2) arrest or prevent the escape from custody of someone whom he reasonably believes committed or attempted to commit a felony

involving the infliction or threatened infliction of serious physical injury, and if, where feasible, he warned of his intent to use deadly physical force (CGS § 53a-22 (c)). Deadly physical force means physical force that can be reasonably expected to cause death or serious physical injury (CGS § 53a-3(5)).

The law exempts peace officers from the general duty to retreat rather than use reasonable physical force (CGS § 53a-19(b)).

Use of Physical Force Against Peace Officers

The law prohibits the use of physical force to resist an arrest by a reasonably identifiable peace officer, whether the arrest is legal or illegal.

Crimes Against Peace Officers

A person is guilty of interfering with an officer if he obstructs, resists, hinders, or endangers any peace officer or firefighter performing his duties. A person is guilty of failure to assist a peace officer when he refuses to help a peace officer who asks for help to perform his duties. Both crimes are class A misdemeanors, punishable by up to one year imprisonment, a fine of up to \$2,000, or both.

A person commits assault of a public safety or emergency medical personnel if he assaults a reasonably identifiable officer performing his duties, with intent to prevent him from performing them, by doing any of the following to him:

1. injuring;
2. throwing potentially damaging objects;
3. using tear gas, Mace, or a similar agent;
4. throwing paint, dye, or any other offensive substance; or
5. throwing bodily fluid, such as feces, blood, or saliva. This crime is a class C felony, punishable by up to 10 years imprisonment, a fine of up to \$10,000, or both.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute Change of Reference

Yea 22 Nay 0

Judiciary Committee

Joint Favorable Report

Yea 39 Nay 1